

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RACHEL JENKINS,	:	
	:	
Petitioner,	:	07 CV 11317(JGK)
	:	
-against-	:	
	:	<u>ANSWER</u>
NEW YORK STATE BANKING DEPARTMENT	:	
	:	
Defendant.	:	
	:	
-----X	:	

Defendant, by and through its attorney, ANDREW M. CUOMO, ATTORNEY GENERAL Of the State of New York, as and for its answer to Plaintiff's complaint ("Complaint") filed December 17, 2007, hereby states as follows:

I. PARTIES IN THE COMPLAINT:

1. Admits the allegations contained in Paragraph "A" of Section I of the Complaint.

2. Admits the allegations contained in Paragraph "B" of Section I of the Complaint.

3. Admits the allegations contained in Paragraph "C" of Section I of the Complaint.

II. STATEMENT OF CLAIM:

4. Neither admits nor denies the allegations contained in Paragraph "A" of Section II of the Complaint since it does not contain an allegation. Should the court require an response, Defendant denies that there was any discriminatory conduct on the part of the Defendant. See also, ¶ 8, infra.

5. Neither admits nor denies the allegations contained in Paragraph "B" of Section II of the Complaint since it does not contain an allegation. Should the court require an response, Defendant denies that there was any discriminatory conduct on the part of the Defendant.

6. Denies the allegations set forth in Paragraph "C" of Section II of the Complaint.

7. Denies the allegations contained in Paragraph "D" of Section II of the Complaint.

8. Denies the allegations contained in Paragraph "E" of Section II of the Complaint except avers as follows: admits that Plaintiff was placed on administrative leave on October 12, 2005 but denies that she was not given an explanation as to why she was on leave and avers defendant sent Plaintiff a certified letter as to her administrative leave; denies knowledge or information sufficient to form a belief as to whether she has heard from co-workers on a regular basis that defendant does not want her there or does not like her; admits that defendant filed a notice of discipline on February 15, 2006; denies knowledge and information sufficient to admit the allegation as to whether plaintiff filed a complaint on November 22, 2005.

III. EXHAUSTION OF REMEDIES:

9. Admits the allegations contained in Paragraph "B" of Section III of the Complaint.

10. Admits the allegations contained in Paragraph "B" of Section III of the Complaint.

11. Admits the allegations contained in Paragraph "C" of Section III of the Complaint.

VI. RELIEF:

12. No response is necessary for Paragraph IV of the Complaint because Plaintiff does not assert any allegations but requests monetary relief in this action. If however, the court should deem that an response is required, Defendant denies any liability in this action such that Plaintiff is entitled to the relief she requests or any other related relief.

AS AND FOR ITS FIRST DEFENSE, DEFENDANT ALLEGES

13. The complaint fails to state a cause of action.

AS AND FOR ITS SECOND DEFENSE, DEFENDANT ALLEGES

14. Plaintiff is not entitled to the relief she seeks in whole or in part.

AS AND FOR ITS THIRD DEFENSE, DEFENDANT ALLEGES

15. Plaintiff fails to state a cognizable claim under federal law, either in part or the entirety of the complaint.

AS AND FOR ITS FOURTH DEFENSE, DEFENDANT ALLEGES

16. This court does not have subject matter jurisdiction of certain claims and allegations as set forth in the complaint.

AS AND FOR ITS FIFTH DEFENSE, DEFENDANT ALLEGES

17. Certain claims or causes of action as alleged in the complaint may be barred by the applicable statute of limitations.

AS AND FOR ITS SIXTH DEFENSE, DEFENDANT ALLEGES

18. Plaintiff failed to satisfy the statutory prerequisites for filing either a part of or all claims in this action.

WHEREFORE, this Court should dismiss this Complaint and any other relief the Court deems appropriate.

Dated: New York, New York
July 14, 2008

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendant
BY:

/s/ Roberta L. Martin
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